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Cross-Defendant CHURCH OF SCIENTOLOGY
9 INTERNATIONAL

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF MARIN

12
13 CHURCH OF SCIENTOLOGY INTERNATIONAL,)
a California not-for-profit)
14 religious corporation;)
15 Plaintiffs,)
16 vs.)
17)
18)
19 GERALD ARMSTRONG; MICHAEL WALTON; et)
al.,)
20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

CASE NO. 157 680

PLAINTIFF'S OPPOSITION
TO DEFENDANT GERALD
ARMSTRONG'S THIRD EX
PARTE APPLICATION TO
CONTINUE HEARING ON
MOTIONS FOR SUMMARY
ADJUDICATION

Date: April 7, 1995
Time: 9:00 a.m.
Dept: 1
Trial Date:
May 18, 1995

1 Plaintiff, Church of Scientology International, objects to
2 defendant Gerald Armstrong's third request for additional time in
3 which to respond to pending dispositive motions. Armstrong's
4 request should be denied for the following reasons:

5 1. The motions for summary adjudication were filed and served
6 on February 23, 1995, and March 17, 1995 [Declaration of Laurie J.
7 Bartilson, ¶2]. Armstrong has thus already had six weeks in which
8 to oppose the first motion, and three weeks in which to oppose the
9 second motion. He has filed nothing, other than requests for
10 continuances.

11 2. This is the third time that Armstrong has requested a
12 continuance of the hearing on these motions. This Court granted him
13 an extension on each of the first two applications. [Id., ¶3]

14 3. Armstrong first sought a continuance of the original
15 hearing date on plaintiff's motion for summary adjudication of the
16 twentieth cause of action one week before his opposition was due to
17 be filed. At that time, Armstrong claimed, by way of declaration,
18 that he was unable to prepare the needed opposition because his
19 friends, Michael Walton and Michael Douglas, had refused to loan him
20 money. Armstrong claimed that Walton and Douglas told him that they
21 would not help him because they were "terrified" of the plaintiff.
22 [Ex. 1 to Bartilson Dec., p. 6, ¶8] On the basis of this
23 declaration, Armstrong obtained a continuance of the hearing on
24 plaintiff's first summary adjudication motion of two weeks. The
25 hearing was postponed until April 14, 1995. [Bartilson Dec., ¶4]

26 4. Armstrong's claims concerning Walton and Douglas were
27 false. After Armstrong obtained the continuance, both Walton and
28 Douglas wrote to Armstrong to complain about Armstrong's false

1 declaration. Walton stated that "[N]either Solina nor myself ever
2 indicated to you or anyone else that at any time we 'had been
3 terrified by the Scientology organization.'" [Bartilson Dec.,
4 Exhibit 2]. Douglas said,

5 I object to the way in which you have used my name
6 and Kima's name in your fund solicitation and in your
7 legal declaration, which I consider to have been done in
8 a way which misrepresents the actual situation.

9 Scientology did not contact me or tell me they would
10 cause me trouble. I contacted them, after receiving your
11 blessing to do so, to request their blessing to my
12 responding to your request for a computer and a loan;
13 Scientology's blessing was not forthcoming. . . .

14 Rinder did not tell me "I could not loan [you] any
15 money, and that if [I] did Scientology would make trouble
16 for [me]". Rinder declined to give me Scientology's
17 blessing, that is all.

18 [Bartilson Dec., Exhibit 3].

19 5. On March 29, 1995, two days before his continued
20 opposition was due to be filed, Armstrong again sought and obtained
21 a continuance of the summary adjudication motions. This time,
22 Armstrong claimed that he needed an extension of time because he had
23 been "incapacitated by psychic trauma" for two weeks. He asked for
24 a further two week extension of time, promising the Court that if he
25 were given an extension, he would complete and file and opposition,
26 and continue to look for new counsel. [Bartilson Dec., Exhibit 4]
27 This Court granted him a continuance of 1 week, moving the hearing
28 on plaintiff's motions to April 21, 1995 (27 days before trial).

[Id., ¶6]

29 6. Armstrong's oppositions to these motions are now due
30 today. Yesterday, Armstrong informed me that he intended to seek
31 this continuance on the grounds that: (1) he was planning to
32 interview a lawyer who might agree to accept his case this weekend

1 (whom he would not identify) and (2) he was attempting to obtain two
2 declarations, which would not be available tomorrow. He now wants
3 to move the hearing on these motions to April 28, 1995, 20 days
4 before trial. [Id., ¶7]

5 7. Armstrong parted company with his lawyers in February,
6 1995. He has certainly had ample time in which to replace them, if
7 he intended to do so. Instead, it seems patently obvious that
8 Armstrong is attempting to parlay his in pro per status into a
9 continuance of the trial date. As this case has now been pending
10 for more than three years, both plaintiff and Armstrong's co-
11 defendant, Michael Walton, strongly object to any such proposed
12 delay.

13 8. Delay of trial is highly prejudicial to plaintiff.
14 Plaintiff already has a partial judgment of \$100,000, which it
15 cannot collect until this matter has been concluded. Moreover,
16 during the pendency of this action, Armstrong has continued to
17 repeatedly breach the Agreement which forms the basis of the
18 complaint. Plaintiff's motion for summary adjudication of the
19 twentieth cause of action, now pending, sets forth in detail the
20 breaches, and requests that this Court enter a permanent injunction
21 which is comprehensive and designed to stem the tide of Armstrong's
22 bad faith conduct. Whether this determination is made by summary
23 adjudication or by trial, plaintiff is prejudiced by Armstrong's
24 deliberate misconduct, and each additional day of delay compounds
25 the prejudice.

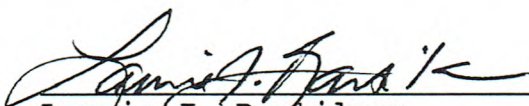
26 9. The strategy of repeated delay is nothing new to
27 Armstrong. See plaintiff's pending Motion for Terminating or
28 Evidentiary Sanctions against defendant Gerald Armstrong. In the

1 moving papers in support of that motion, plaintiff details the
2 nearly two years of delay that Armstrong has obtained in this
3 action, continuance by continuance, by continuance. Hearings in
4 this case, uniformly on motions brought by plaintiff, and on which
5 plaintiff eventually prevailed, were continued because Armstrong's
6 attorney had a medical condition; Armstrong's attorney had a
7 conflict in another case; Armstrong's attorney claimed he would be
8 spending an entire month in trial; Armstrong's attorney was ill and
9 could only work two hours a day; Armstrong's copier malfunctioned;
10 Armstrong's attorney was on vacation, etc., etc., etc., for a total
11 of 636 days of delay. Plaintiff submits that this is more than
12 enough. Armstrong's application should be denied.

13 Dated: April 7, 1995

Respectfully submitted,

Andrew H. Wilson
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17 By: 
18 Laurie J. Bartilson

19 Attorneys for Plaintiff
20 CHURCH OF SCIENTOLOGY
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